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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,573

12/03/2003

Eiko E. Kato

450133-04595.1

2292

20999 7590 03/29/2011  
FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER

WALSH, JOHN B

ART UNIT

PAPER NUMBER

2451

MAIL DATE

DELIVERY MODE

03/29/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/729,573	<b>Applicant(s)</b> KATO ET AL.	
	<b>Examiner</b> John B. Walsh	<b>Art Unit</b> 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,9-23,25-44 and 46-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-23,25-44 and 46-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/11/11</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 9-23, 25-44 and 46-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2002/0002074 to White et al. in view of U.S. Patent No. 7,803,052 to Multerer et al. and U.S. Patent No. 6,152,824 to Rothschild et al.

White et al. '074 disclose:

As concerns claim 1, an environment information server, comprising: a server controller (0040-hardware of master server); a network connection (fig. 1, network-inherent to have network connection) connected to said server controller; an environment information database (fig. 5-statistics database) connected to said server controller for storing data for one or more network environments; and a request handler (0012, 0018-request from clients received, thus inherent to have a "request handler") connected to said server controller for processing requests received through said network connection; wherein the environment information server periodically polls the one or more network environments (fig. 5-receive stats from hosts; fig. 4-active host list), maintains the environment information database with a list of available network environments and network information for connecting to each network environment (0012-

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listing of available games; fig. 4-active host list) and updates the environment information database with changes in the available network environments (fig. 5-update database); wherein said request handler exchanges data with said environment information database and returns, in response to a received request (fig. 7, 701; 0018-request from client), an environment report, wherein the environment report comprises information characterizing network environments selectable by the user for connection (fig. 7; 702) and client system dependent data derived from information from the environment information database and network information of the client system.

As concerns claims 18 and 51, a method of providing environment information, comprising: periodically polling one or more network environments (fig. 5-receive stats from hosts; fig. 4-active host list); maintaining the environment information database with a list of available network environments and network information for connecting to each network environment (0012-listing of available games; fig. 4-active host list); updating an environment information database with information regarding each of the one or more network environments and with changes in the available network environments (fig. 5-update database); receiving a request (fig. 7, 701; 0018-request from client) from a user; retrieving environment information for the one or more environments from the environment information database (fig. 5-database; fig. 4-list); sending/presenting (fig. 7, 702), in response to the user request, the environment report of network environments selectable by the user; wherein the environment report comprises information characterizing network environments selectable by the user for connection and client system dependent data derived from information from the environment information database and network information of the client system (fig. 7, 703,704).

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As concerns claims 32 and 52, sending an environment information request (fig. 7, 701; 0018-request from client) from a client to an environment information server (fig. 7, 701-master server); receiving from said environment information server, in response to the request, an environment report of network environments selectable by the client for connection (fig. 7, 702); wherein the environment information server periodically polls the one or more network environments (fig. 5-receive stats from hosts; fig. 4-active host list) and maintains the environment information database with a list of available network environments and network information for connecting to each network environment and updates the environment information database with changes in the available network environments (fig. 5-update database); exchanging data with said environment information database to return to the client in response to the received request, the environment report (fig. 7; fig. 7-active host list); and client system dependent data derived from information from the environment information database and network information of the client system (fig. 7, 703,704).

White et al. '074 do not explicitly disclose wherein the information characterizing each network includes user count information that indicates the current number of clients connected to the environment, the maximum number of clients allowed to be connected to the environment and the latency information.

Multerer et al. '052 teach user count information that indicates the current number of clients connected to the environment (fig. 12-currently filled slots; col. 11, lines 39-50) and the maximum number of clients (fig. 12-available slots; col. 11, lines 39-50) allowed to be connected to the environment sent to a user in a report (message of fig. 12).

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It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of White et al. '074 with count information, as taught by Multerer et al. '052, in order to provide updated game information to a user to aid them in selecting an appropriate game. Such a modification is a combination of known elements yielding predictable results.

White et al. '074, as modified, do not explicitly disclose latency information; said network information indicates a port number of the environment; and said status information indicates whether the environment is available or not.

Rothschild et al. '824 teach:

Latency information for a particular network environment estimated relative to a sample user to estimate latency relative to the requesting user (col. 10, lines 4-13-Gizmo's latency to SV; col. 10, lines 42-48-latency info reported to user; col. 13, lines 33-35-latency from client to server; col. 16, lines 24-26-latency from client to server).

As concerns claims 5, 21, 23, 42 and 44, said network information indicates a port number (col. 3, line 66) of the environment.

As concerns claims 6, 22, 23, 43 and 44, said status information indicates whether the environment is available or not (col. 9, line 53).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of White et al. '074 as modified, with latency information and network information, as taught by Rothschild et al. '824, in order to provide pertinent network game information to aid them in selecting a game that would provide the best network

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connection experience. Such a modification is a combination of known elements yielding predictable results.

White et al. '074 further disclose:

As concerns claims 2, 23, 24, 44 and 45 environment information for an environment includes network information for the environment (0042-game host) and status information for the environment (0042-latency).

As concerns claims 3, 19 and 40, network information indicates a name (0042-game host being listed would inherently be identified by a “name”) of the environment.

As concerns claims 4, 20 and 41, said network information indicates a fully qualified domain name (inherent for connection to have a domain name) of the environment.

As concerns claims 9, 25 and 46 wherein: said environment information also includes description information (0042-bandwidth) indicating information describing the environment.

As concerns claims 10, 26 and 47, wherein: said description information indicates news about the environment (0042-bandwidth and latency are “news”, i.e. information).

As concerns claims 11, 27 and 48, wherein: said environment report provides multi-lingual support (data is not in any particular language, therefore end system may convert it for presentation to the default language for the system thus providing the support; 0058).

As concerns claims 12 and 28, wherein: said environment information request indicates client information (0013-user data received from game clients; users rankings; 0014-credit information, account information) about said client.

As concerns claims 13 and 37, wherein: each environment supports an on-line game (0004).

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As concerns claims 14, 31 and 50, wherein: said requests are received from game consoles (0036-game client) connected to said network connection through the Internet (0058).

As concerns claims 15, 30 and 49, wherein: said network connection is connected to the Internet (0058).

As concerns claim 16, wherein: said request handler generates environment reports (fig. 5-generate reports) using data stored in said environment information database (0039; fig. 5-statistics database).

As concerns claims 17, 29, 38 and 39, wherein: said request handler customizes environment reports using client information in received requests (0042-sorted by bandwidth and latency based on user location, thus inherent user location is client information that must have been received to prepare report).

As concerns claim 33, the method of claim 32, further comprising: connecting said client to a data network (0058-networks); establishing said network connection between said client and said environment information through said data network (fig. 7;connected to game and host); closing said network connection to said environment information server after receiving said environment report (0044-game will begin, thus selection screen closed and game data transmitted).

As concerns claim 35, the method of claim 32, further comprising: selecting an environment (fig. 7, 702,703) according to said environment report.

As concerns claim 36, the method of claim 35, further comprising: establishing a second network connection (can establish another connection at another point in time, and thus be a "second" connection) to said selected environment.



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3. Claims 1-6, 9-23, 25-44 and 46-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,152,824 to Rothschild et al. in view of U.S. Patent No. 7,803,052 to Multerer et al.

Rothschild et al. '824 disclose:

As concerns claim 1, an environment information server, comprising: a server controller (501); a network connection (fig. 3) connected to said server controller; an environment information database (col. 5, line 40; col. 5, lines 50-60; fig. 8, 61) connected to said server controller for storing data for one or more network environments; and a request handler (col. 3, lines 29-32) connected to said server controller for processing requests received through said network connection; wherein the environment information server periodically polls the one or more network environments (col. 5, lines 50-55-continually maintain conversations for network and operational status), maintains the environment information database with a list of available network environments and network information for connecting to each network environment (fig. 8, 61-list of MCP addresses) and updates the environment information database with changes in the available network environments (fig. 8 and 10-receive ping results, select best, replacement MCP-is an update; fig. 10, 109-update address tables); wherein said request handler exchanges data with said environment information database and returns, in response to a received request, an environment report, wherein the environment report comprises information characterizing network environments selectable by the user for connection (fig. 10; 110, 111) and client system dependent data derived from information from the environment information database and network information of the client system, and latency information for a particular network environment estimated relative to a sample user to estimate latency relative to the

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requesting user (col. 10, lines 4-13-Gizmo's latency to SV; col. 10, lines 42-48-latency info reported to user; col. 13, lines 33-35-latency from client to server; col. 16, lines 24-26-latency from client to server).

As concerns claims 18 and 51, a method of providing environment information, comprising: periodically polling one or more network environments (col. 5, lines 50-55-continually maintain conversations for network and operational status); maintaining the environment information database with a list of available network environments and network information for connecting to each network environment (col. 5, lines 50-60; fig. 8, 61); updating an environment information database with information regarding each of the one or more network environments and with changes in the available network environments (fig. 8 and 10- receive ping results, select best, replacement MCP-is an update; fig. 10, 109-update address tables; col. 5, lines 50-55-continually maintains current status); receiving a request (60) from a user (1); retrieving environment information for the one or more environments from the environment information database (col. 5, line 40; fig. 8, memory storing the list-61); sending/presenting (fig. 8), in response to the user request, the environment report of network environments selectable by the user (fig. 10; 110, 111); wherein the environment report comprises information characterizing network environments selectable by the user for connection and client system dependent data derived from information from the environment information database and network information of the client system (col. 6, lines 5-10-operational conditions; fig. 8, 62) and latency information for a particular network environment estimated relative to a sample user to estimate latency relative to the requesting user (col. 10, lines 4-13-

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Gizmo's latency to SV; col. 10, lines 42-48-latency info reported to user; col. 13, lines 33-35-latency from client to server; col. 16, lines 24-26-latency from client to server).

As concerns claims 32 and 52, sending an environment information request (60) from a client (1) to an environment information server (col. 2, line 5); receiving from said environment information server, in response to the request, an environment report of network environments selectable by the client for connection (fig. 8;62); wherein the environment information server periodically polls the one or more network environments (col. 5, lines 50-55-continually maintain conversations for network and operational status) and maintains the environment information database with a list of available network environments and network information for connecting to each network environment (fig. 8, 61-list of MCP addresses) and updates the environment information database with changes in the available network environments (fig. 8 and 10-receive ping results, select best, replacement MCP-is an update; fig. 10, 109-update address tables; col. 5, lines 50-55-continually maintain conversations for network and operational status); exchanging data with said environment information database to return to the client in response to the received request, the environment report (fig. 8, 62,65); wherein the environment report comprises information characterizing the one or more network environments selectable by the user for connection, including user count information indicating the current number of clients (col. 9, lines 10-22) connected to the environment; and client system dependent data derived from information from the environment information database and network information of the client system (fig. 8-best MCP determined and reported to client; col. 5, line 50-list of addresses; col. 6, lines 1-10-latencies) and latency information for a particular network environment estimated relative to a sample user to estimate latency relative to the

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requesting user (col. 10, lines 4-13-Gizmo's latency to SV; col. 10, lines 42-48-latency info reported to user; col. 13, lines 33-35-latency from client to server; col. 16, lines 24-26-latency from client to server).

Rothschild et al. '824 do not explicitly disclose wherein the information characterizing each network includes the maximum number of clients allowed to be connected to the environment.

Multerer et al. '052 teach the maximum number of clients (fig. 12-available slots; col. 11, lines 39-50) allowed to be connected to the environment sent to a user in a report (message of fig. 12).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Rothschild et al. '824 with count information, as taught by Multerer et al. '052, in order to provide updated game information to a user to aid them in selecting an appropriate game. Such a modification is a combination of known elements yielding predictable results.

Rothschild et al. '824 further disclose:

As concerns claims 2, 23, 24, 44 and 45 environment information for an environment includes network information for the environment (addresses), status information for the environment.

As concerns claims 3, 19 and 40, network information indicates a name (col. 10, line 45) of the environment.

As concerns claims 4, 20 and 41, said network information indicates a fully qualified domain name (inherent for connection to have a domain name) of the environment.

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As concerns claims 5, 21 and 42, said network information indicates a port number (col. 3, line 66) of the environment.

As concerns claims 6, 22 and 43, said status information indicates whether the environment is available or not (col. 9, line 53).

As concerns claims 9, 25 and 46 wherein: said environment information also includes description information (col. 10, line 43) indicating information describing the environment.

As concerns claims 10, 26 and 47, wherein: said description information indicates news about the environment (col. 10, line 43).

As concerns claims 11, 27 and 48, wherein: said environment report provides multi-lingual support (data is not in any particular language, therefore end system may convert it for presentation to the default language for the system thus providing the support).

As concerns claims 12 and 28, wherein: said environment information request indicates client information (col. 5, line 40) about said client.

As concerns claims 13 and 37, wherein: each environment supports an on-line game (col. 1, lines 59-60).

As concerns claims 14, 31 and 50, wherein: said requests are received from game consoles (1; client computers) connected to said network connection through the Internet (col. 1, line 31).

As concerns claims 15, 30 and 49, wherein: said network connection is connected to the Internet (col. 1, line 31).

As concerns claim 16, wherein: said request handler generates environment reports (fig. 8, 61) using data stored in said environment information database.

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As concerns claims 17, 29 and 39, wherein: said request handler customizes environment reports using client information in received requests (fig. 8;65).

As concerns claim 33, the method of claim 32, further comprising: connecting said client to a data network; establishing said network connection between said client and said environment information through said data network; closing said network connection to said environment information server after receiving said environment report (fig. 8).

As concerns claim 35, the method of claim 32, further comprising: selecting an environment (fig. 10; 111) according to said environment report.

As concerns claim 36, the method of claim 35, further comprising: establishing a second network connection (fig. 8) to said selected environment.

As concerns claim 38, the method of claim 32, further comprising: said environment information request indicates client information (col. 5, line 40) about said client.

### **Response to Arguments**

4. Applicant's arguments filed January 11, 2011 have been fully considered but they are not persuasive.

The applicant argues Multerer fails to disclose reporting the latency period between a requesting client and the gaming server. The applicant further states the gaming servers of Multerer are categorized in zones and the latencies are only to determine the distance between pairs of zones. The applicant further states Multerer does not disclose the latency distance is between the user and the server, no less reported to the user. The applicant also states neither White nor Rothschild cure the deficiency of Multerer.

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The examiner disagrees since Rothschild discloses and teaches the newly added claim limitations concerning latency between a user and a game server (see rejections above).

### **Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 8:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John B. Walsh/  
Primary Examiner, Art Unit 2451